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|---|-------------|-----------------------------|---------------------|------------------|
| 10/539,716 | 03/10/2006 | John Hatrick-Smith | 550639.00006 | 2911 |
| 26710 7590 08/19/2010 QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497 | | | | |
| EXAMINER LE, HUYEN D | | | | |
| ART UNIT 3751 | | PAPER NUMBER | | |
| NOTIFICATION DATE 08/19/2010 | | DELIVERY MODE ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pat-dept@quarles.com

Office Action Summary

Application No.

10/539,716

Applicant(s)

HATRICK-SMITH ET AL.

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-8, 11-17, 19 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17, 19 and 21-25 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6-8 and 11 is/are rejected.
- 7) ☒ Claim(s) 3 and 12-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacuzzi (3,297,025).

Jacuzzi discloses a spa bath including at least one spa jet fitting 22 having a front part 24 including a front face 25 exposed to the interior of the bath cavity, the front part 24 having a diameter across the front face, the jet fitting mounted within a recess 23 formed in the wall 12 of the spa bath, having a diameter (the flange of member 34) across the recess substantially the same as the diameter of the front part 24, the front face 25 being solid and having one outlet therethrough, the front face 25 not protruding beyond the surface of the bath wall immediately around the front part 24.

Regarding claim 2, a major portion of the front face 25 of the fitting is substantially flush with the surrounding surface of the bath wall.

3. Claims 6, 7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Spencer, III et al. (4,261,347).

Spencer, III et al. disclose a spa bath including at least one spa jet fitting 10 mounted through an aperture of the spa bath and in a mounting recess formed in the wall, the mounting recess comprising inwardly angled side walls, the spa jet fitting

comprising a front part 31 including an edge portion about the periphery of the front part which is tapered with reducing diameter toward a rear part of the spa jet fitting, the tapered edge portion of the front part 31 seats in the mounting recess against the inwardly angled side walls of the mounting recess to center the spa jet fitting in the recess.

Regarding claim 7, the front part 31 includes a front ring 53 which provides the wide diameter front face of the fitting.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer, III et al. (4,261,347) in view of Loizeaux et al. (GB 2319195).

Although Spencer, III et al. do not disclose the front ring rotatable by a user, attention is directed to the Loizeaux et al. reference which teaches a spa jet fitting having a rotatable front ring 21. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a rotatable front ring Spencer, III et al. spa jet fitting in view of the teaching of Loizeaux et al. for a user to adjust water flow from the spa jet fitting as needed.

Allowable Subject Matter

5. Claims 17, 19, 21-25 are allowed.
6. Claims 3 and 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed on 06/02/2010 with respect to claims 1, 6 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Huyen Le/
Primary Examiner, Art Unit 3751